GOVERNMENT OF KARNATAKA

SOCIAL WELFARE AND LABOUR DEPARTMENT

Labour Dispute.—Industrial Dispute between the workmen and the management of Ravikala Restaurant, Avenue Road, Bongalore-2.

Award of the Presiding Officer, Labour Court, Bangalore, published.

Read the following papers :

(1) Letter No. 1838/74-75, dated 28th January 1975 from Shri P. Srinivasacharya, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, BANGALORE.

Dated this 28th day of January 1975.

Present :

Sri P. Srinivasacharya, B.A., LL.B., Presiding Officer.

Reference No. 34 of 1971.

First Party.—

Workmen of the Ravikala Restaurant, represented by the Secretary, Bangalore District Hotel and Canteen Workers Union, No. 50-A, A. S. Char Street, Bangalore.

Vs.

Second Party.—

The Management of Ravikala Restaurant, Avenue, Road, Bangalore-2.

Reference.—Government Order No. FCL 617 LLD 70, dated 18th May 1971.

AWARD

1. The Government of Mysore (now Government of Karnataka) in their Order No. FCL 617 LLD 70, dated 18th May 1971 have referred an industrial dispute existing between the above named parties to this Court for adjudication on the points of dispute noted below:—

"I. Is the management of Ravikala Restaurant, Avenue Road, Bangalore-2, justified in terminating the services of the undermentioned workmen with effect from 15th December 1969 :—

Sriyuths:—

1. Venkata Rao
2. Govinda
3. Rama
4. Subba
5. Narjunda
6. Kumara
7. Narasimha
8. Krishna
9. Narasimhalu
10. Shambu
11. Narayan
12. Nagappa
13. Ramu (Cleaner)
14. Seena
15. Shekar
16. Venkatesha
17. Krishna
18. Shiva
19. Puttaswamy
20. Ranga
21. Ganga
22. Bora
23. Kempa
24. Ganga (Cleaner)
25. B. Ramu
26. Radhakrishna
27. Prakash
28. Sundar Shenoy
29. Bhoja
30. Rajasekhara.

II. Whether the management of Ravi Kala Restuarant, Avenue Road, Bangalore-2, are justified in closing down their Restaurant with effect from 15th Dceember 1969 to 17th December 1969 ?

III. If not, to what relief are the affected workmen entitled ?"

2. On behalf of the I Party one M. Rama Rao, Secretary, Bangalore District Hotel and Canteen Workers' Union, 50/A, Arcot Srinivasachar Street, Bangalore-2A, filed the claim statement, dated 21st June 1971. It may be

noted that he alone had signed the claim statement and that it has not been signed by any of the workers mentioned in the order of Reference. The objection statement was filed on 9th September 1971 by Mr. H. Subbarao, Proprietor of the II Party. Mr. M. Rama Rao conducted the case for some time. On 29th September 1973 the II Party filed an application saying that Mr. Suryanarayana Rao and Mr. Rama Rao were no longer connected with the I Party Union and they cannot represent the matter on behalf of the Union, to which the workers wanted to file objections. The workers filed objections on 15th November 1973. Thereafter on 17th January 1974, Mr. K. Subba Rao, Advocate, appeared for I Party and prayed for time. In between, some of the workers came and submitted applications stating that they have received compensation and their name may be deleted from the reference. On 16th April 1974 Mr. K. Subba Rao, Advocate, filed an application under Section 36(4) of the Industrial Disputes Act seeking permission to appear I Party. The II Party took time to file objection. The objections were filed by Mr. M. Channabasappa, Secetary, Bangalore District Hotel and Canteen Workers' Union, Bangalore-53, and also by the Proprietor of the II Party. Then a few more I Party workmen came and prayed that their names may be delted from reference saying that their claims have been fully settled. Then On behalf of the II Party, written arguments were filed. and posted to hear the arguments of Mr. Channabasappa. On behalf of the IInd Party, written arguments were filed. On 25th January 1975 a joint memorandum of settlement is filed signed by the Secretary of the I Party Union and the Proprietor of the II Party. The terms have been fully set out in the settlement. They are fair and reasonable. Hence I accept the same.

8. It is unnecessary for me to decide the question which has been raised by some of the workmen of the I Party that they are entitled to be represented by a person

of their own choice. Since the question has been raised, I would like to answer the same.

4. The Secretary of the Bangalore District Hotel and Canteen Workers' Union, Bangalore, has entered into a settlement with the II Party. The reference dated 18th May 1971 received from the Government is to decide whether the management of the II Party was justified in terminating the services of the workmen mentioned in the order of reference with effect from 15th December 1969 and further whether it was justified in closing the restaurant from 15th December 1969 to 17th December 1969 and to what relief the affected workmen are entitled. This dispute has been raised by the Secretary of the Bangalore District Hotel and Canteen Workers' Union, Bangalore. It is the Secretary who has through out represented and fought the case. If the Union had not taken up the cause of the workmen, there would not have been any reference. If the individual workers had been adversely affected by these terminations and closure, they should have sought separate references as the reference is dated 18th May 1971. By that time Section 2A of the Industrial Disputes Act had been incorporated, wherein the individual worker had the right to raise an industrial dispute. The workers have not done that and now they come out with a grievance that their case is not properly represented by the Secretary of the Unions. They have no *loco standi* to raise such an objection. In this view, I am supported by the observations of the Supreme Court in Ram Prasad Vishwakarma *Vs.* Industrial Tribunal, Patna (reported in S.C. Labour Judgments (1950-1967) Vol. V, at page 3582). The relevant observations are quoted beow :—

"The necessary controllary to this is that the individual workman is at no stage a party to the industrial dispute independently of the union. The union or those workmen who have by their sponsoring turned the individual dispute, can therefore claim to have a say in the conduct of the proceedings before the tribunal.

It is not unreasonable to think that Section 36 of the Industrial Disputes Act recognizes this position, by providing that the workman who is a party to a dispute shall be entitled to be represented by an officer of a registered trade union of which he is a member. While it will be unwise and indeed impossible to try to lay down a general rule in the matter, the ordinary rule should, in our opinion, be that such representation by an officer of the trade union should continue throughout the proceedings in the absence of exceptional circumstances which may justify the tribunal to permit other representation of the workman concerned. We are not satisfied that in the present case there were any such exceptional circumstances. It has been suggested that the Union's Secretary, Fateh Singh, himself had made the complaint against the appellant which resulted in the order of dismissal. It has to be observed, however, that in spite of everything, the union did take up this appellant's case against his dismissal as its own. At that time also, Fateh Singh was the Secretary of the union. If the union had not taken up his cause, there would not have been any reference. In view of all the circumstances, we are of opinion that it cannot be said that the tribunal committed any error in refusing the appellant's prayer for representation through representatives of his own choice in preference to Fateh Singh, the Secretary of the Union."

The facts and circumstances under which the above observations are made, are similar to the facts and circumstances of this case. As such I am not inclined to accept the argument of Sri K. Subba Rao, Advocate, that individual workmen have the right to represent their own case through the person of their own choice when it is found that Secretary was acting in collusion with the management.

5. Mr. Noor Husain, who was representing the II Party, has submitted written arguments, in which he has pointed out that the reference was initiated by the first party union on behalf of certain workers; therefore, that

union alone can represent the workers and continue the dispute and none else and this hts been made clear by the Supreme Court in the above mentioned case. The Supreme Court has held that the individual workman cannot have a Separate representation and some of them cannot break away from the union and conduct parallel proceedings or dispute the authority of the union. Even the persons who had sought separate representation are not consistent in their attitude. These persons had indulged in violence and could not have been kept in service. Workers who have caused wanten damage to the hotel and its contents and had threatened the proprietor and loyal workers of physical harm as in the present case. They cannot claim reinstatement. The dismissal was amply justified to protect and secure the life and property of the employer. Some of the workers who seek to continue the dispute should not be permitted to continue the dispute. The Union alone is the party to the dispute and dissenting workers' application is fit to be rejected.

6. To promote industrial peace and harmony the Secretary of the Bangalore District Hotel & Canteen Workers' Union, Bangalore, has entered into a settlement with the II Party. The terms of the settlement are fair and reasonable and I accept the same. The reference is pending since 1971 and the settlement is fit to be accepted which is intended to achieve industrial peace.

7. In the result, I pass an award in terms of the memorandum of s ettlement, dated 25th January 1975 which shall be annexed to this award and be deemed as forming part of it. No costs.

P. SRINIVASACHARYA,
Presiding Officer,
Labour Court, Bangalore.

/COPY/

P. Srinivasacharya,
Presiding Officer,
Labour Court, Bangaore.

IN THE COURT OF THE PRESIDING OFFCER, LABOUR COURT, BANGALORE.

Reference No. 34 of 1971

First Party.—

The workmen of Ravikala Restaurant, represented by the Secretary, Bangalore District Hotel and Cantten Workers Union, 50-A, Arcot Srinivasachar Street, Bangalore-53.

Second Party.—

The Management of Ravikala Restaurant, represented by its Proprietor, Sri H. Subba Rao, Avenue Road, Bangalore-2.

Memorandum of Settlement

The parties to the above dispute after prolonged discussion have arrived at an amicable settlement on the following terms.

Terms of Settlement

The Second party Proprietor agrees to pay to the 30 workmen named in the reference the amount shown against their names as compensation and *ex-gratia* in full and final settlement of all their claims.

		Rs.	P.
1.	Venkataraju—Cook ..	628	.00
2.	Govinda—Asst. Cook ..	93	.00
3.	S. R. Ramu—Asst. Cook ..	174	.00
4.	Subba—Vegetable Cutter ..	710	.00
5.	Nanjunda—Cleaner ..	94	.00
6.	Kumara—Cleaner ..	102	.00
7.	Narasimha—Asst. Grinder ..	50	.00
8.	Krishna—Grrinder ..	624	.00
9.	Narasimha—Supplier ..	500	.00
10.	Shamu—Supplier ..	152	.00
11.	Narayana—Supplier ..	638	.00
12.	Nagappa—Supplier ..	80	.00
13.	Ramu—Cleaner ..	248	.00
14.	Seena—Cleaner ..	64	.00
15.	Shekara—Cleaner ..	198	.00
16.	Venkatesha—Cleaner ..	428	.00
17.	Krishna—Cleaner ..	125	.00
18.	Shiva—Cleaner ..	548	.00
19.	Puttaswamy—Cleaner ..	520	.00
20.	Ranga—Cleaner ..	264	.00
21.	Ganga—Cleaner ..	580	.00
22.	Bora—Cleaner ..	540	.00
23.	Kempa—Cleaner ..	640	.00
24.	A. Gang—Cleaner ..	430	.00
25.	B. Ramu—Supplier ..	48	.00
26.	Radhakrishan—Supplier ..	150	.00
27.	Prakasha—Supplier ..	624	.00
28.	Sundera Shenoy—Gatekeeper ..	142	.00
29.	Bhojarao—Supplier ..	125	.00
30.	Rajasekara—Cleaner ..	252	.00

2. The Second party proprietor will pay to each of the workmen named above the amount mentioned against their names whenever the workmen present themselves with proper identification.

3. This agreement has been made by the First party after taking into consideration the real state of affairs and in the firm belief that it is beneficial to workers. The workers have been duly consulted and has confirmed that it is a beneficial compromise.

4. This disposes off all the claims against the second party in the above reference.

Both parties pray that the Honourable Labour Court be pleased to pass an awarded in terms of the above settlement.

First Party.—

M. CHANNABASAPPA

Secretary,
Bangalore Disrict Hotel and
Canteen Workers Union,
Bangalore-53.

Second Party.—

H. SUBBA RAO

Proprietor,
Ravikala Restaurant,
Avenue Road,
Bangalore-2.

1970

Order No. SWL 35 LLA 75

Bangalore, dated the 19th February 1975.

S. O. 978.—

WHEREAS by State Government Order No. FCL 617 LLD 70, dated 18th May 1971 the Industrial Dispute between the workmen and the management of Ravikala Restaurant, Avenue Road, Bangalore-2, was referred to the Labour Court, Bangalore, for adjudication.

AND WHEREAS the Labour Court, Bangalore, has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Karnataka are pleased to direct the pubication of the said award as above, in the *Karnataka Gazette*.

By Order and in the name of the Governor of Karnataka,

K. MYLARAPPA,

Under Secy. to Govt., S.W. and L. Deptt.